

815 KAR 10:060. Kentucky standards of safety.

RELATES TO: KRS 198B.110, 227.300, 227.320, 227.330, 227.990, 234.140

STATUTORY AUTHORITY: KRS 227.300(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 227.300(1) authorizes the commissioner to promulgate an administrative regulation establishing the Kentucky Standards of Safety, which shall provide a reasonable degree of safety for human life against the exigencies of fire and panic and insuring against fire loss. This administrative regulation establishes the Kentucky Standards of Safety to supplement the Kentucky Building Code, promulgated as 815 KAR 7:120, in matters of fire safety.

Section 1. Definitions. (1) "Accepted" means that all deficiencies communicated, in writing, to the owner have been corrected to the satisfaction of the inspecting authority.

(2) "Distinct fire hazard" means a condition that poses a threat to life or property, including a condition likely to inhibit escape from danger of fire or explosion. A building shall be deemed a distinct fire hazard if the authority having jurisdiction determines:

- (a) A fire, explosion, or asphyxiation is likely to occur;
- (b) Conditions may provide a ready fuel supply to augment the spread or intensity of a fire or explosion;
- (c) A building is vacant, unguarded and open to unauthorized entry;
- (d) An accumulation of combustible dust, debris, or materials is present;
- (e) Required exits or fire protection are in non-working condition or not present;
- (f) Objects are placed or installed so as to interfere with exits or exit routes;
- (g) Combustible materials or items are in dangerous proximity to an ignition source such as a stove, fireplace, or heater;
- (h) Electrical or mechanical systems or installations create a hazardous condition; or
- (i) Operations, conditions, processes, use, or materials being used fail to afford adequate safety to the public.

Methods of construction that met the uniform state building code requirements, as applicable, at the time of construction shall not be deemed a distinct fire hazard.

(3) "Fire protection system" is defined by KRS 198B.550(6).

(4) "NFPA" means the National Fire Protection Association.

(5) "NICET" means the National Institute for Certification of Engineering Technologies.

(6) "Unsafe Building" means a building characterized by:

- (a) Deficiency in means of egress;
- (b) Danger to human life or public welfare by reason of illegal or improper use, occupancy, or maintenance;
- (c) Non-compliance with construction codes in place at time of construction;
- (d) Significant damage including as the result of:
 - 1. Fire;
 - 2. Explosion;
 - 3. Natural disaster;
 - 4. Neglect; or
 - 5. Vandalism;
- (e) Falling away, hanging loose, or loosening of siding, block, or other building material, appurtenance, or part thereof; or
- (f) Existence of structurally unsafe conditions.

Section 2. Scope. (1) Applicability. This administrative regulation shall apply to all buildings

except one (1) and two (2) family dwellings.

(2) Enforcement.

(a) State Fire Marshal. The State Fire Marshal shall:

1. Have primary jurisdiction over all property, unless a local government has established a fire inspection program by ordinance adopting this administrative regulation pursuant to KRS 227.320; and

2. Have exclusive jurisdiction over state-owned property and primary jurisdiction for code compliance for health care facilities and other facilities licensed by the Kentucky Cabinet for Health and Family Services.

(b) Local fire chief. Jurisdictions wherein a local fire chief is designated by ordinance to operate a fire inspection program pursuant to KRS 227.320 shall have primary jurisdiction for the enforcement of all property within the local governmental boundary except as provided in subparagraph (a)2. of this subsection.

Section 3. Existing Buildings and Conditions. (1) The standards for the construction pursuant to 815 KAR 7:120, Kentucky Building Code, in effect at the time of construction, and for which there has been issued a lawful certificate of occupancy, shall supersede different construction standards regarding the requirements for egress facilities, fire protection, and built-in fire protection equipment established in this administrative regulation or conflicting local ordinances.

(2) Change of use. It shall be unlawful to make a change in the use of a building or portion thereof without project plan review and approval in accordance with 815 KAR 7:120, Kentucky Building Code, except as specified in Chapter 34 therein.

(3) Buildings and conditions approved under other codes.

(a) Buildings constructed prior to promulgation of the uniform state building code. A building, or portion thereof, which was constructed and approved prior to the effective date of the uniform state building code shall be maintained as constructed and approved.

(b) Previous fire code. A building, or portion thereof, which was inspected, approved or accepted pursuant to the 1996 Kentucky Fire Prevention Code shall:

1. Be maintained as previously approved or accepted; and

2. Not be required to make a modification or change for so long as the building is maintained and used as previously accepted or approved.

(c) Buildings not occupied or used for one (1) year or more. Prior to occupancy, a building shall be subject to safety inspection by the State Fire Marshal or his designee to ensure that the structure is neither a distinct fire hazard or an unsafe structure.

(4) Distinct Fire Hazards.

(a) If the State Fire Marshal or local fire chief determines that a distinct fire hazard exists, the fire hazard shall be remedied so as to render the property safe.

(b) The State Fire Marshal shall use the standards specified in this paragraph to identify and to order the correction of a distinct fire hazard acting in accordance with the procedures established in KRS Chapter 227 and Section 5 of this administrative regulation. In exercising authority granted, the following shall be applicable:

1. NFPA 1, Uniform Fire Code, 2012 edition, and the NFPA referenced standards included in Chapter 2 of NFPA 1 except:

a. NFPA 402, Guide for Aircraft Rescue and Fire Fighting Operation, 2002 edition;

b. NFPA 472, Standard for Professional Competence of Responders to Hazardous Materials Incidents, 2002 edition;

c. NFPA 1031, Standard for Profession Qualifications for Fire Inspectors and Plan Examiner, 2003 edition;

- d. NFPA 5000, Building Construction and Safety Code, 2012, edition;
 - e. Code reference 13.3.2.26, High Rise Buildings;
 - f. Code reference 13.3.2.8, Existing Assembly Occupancies; and
 - g. Code reference 13.6, Portable Extinguishers, which if required, shall be modified to exclude the provisions for installation of portable extinguishers in the occupancies listed in Table 13.6. Portable extinguishers shall be installed as required in the occupancy chapters of NFPA 101, Life Safety Code, 2012 Edition;
- 2. NFPA 101, Life Safety Code, 2012 edition, and the NFPA referenced standards included in Chapter 2 of NFPA 101;
 - 3. NFPA 70, National Electrical Code®, 2011 Edition; and
 - 4. 815 KAR 7:120, Kentucky Building Code.

(c) Modifications, alternatives, and interpretations. If the State Fire Marshal accepts or approves an alternative to a code provision or issues an interpretation and the alternative or interpretation is of general applicability, it shall be published and forwarded to all known fire inspectors and other persons requesting a copy.

(5) Abatement of fire hazards. The abatement of a distinct fire hazard pursuant to this administrative regulation shall not require construction measures that would exceed the requirements of the current edition of 815 KAR 7:120, Kentucky Building Code, if the building were being newly constructed.

(6) Maintenance of equipment.

(a) All fire suppression and fire protection equipment, systems, devices, and safeguards shall be maintained in accordance with the applicable NFPA referenced code and the manufacturer's recommendations.

(b) This administrative regulation shall not be the basis for removal or abrogation of a fire protection or safety system or device installed in a building without approval granted by the authority having jurisdiction.

(7) Cooperation with building official. The State Fire Marshal and the local fire chief shall coordinate and cooperate with the building code official having jurisdiction in assessing a building for relative fire safety and to assure that the proper standards are applied.

Section 4. Permits. (1) State permits required. A permit shall be required from the State Fire Marshal for flammable, combustible, and hazardous material storage vessel installations.

(2) Local permits allowed.

(a) A permit from a local government shall not be required unless required by local ordinance.

(b) An inspection or permit fee, if applicable, shall be established within the local adopting legislation.

Section 5. Enforcement of Violations. (1) Notice of deficiency. If the State Fire Marshal or local fire chief observes an apparent violation of a provision of this administrative regulation and the standards incorporated herein or other codes or ordinances under state or local jurisdiction, the State Fire Marshal or local fire chief shall prepare a written notice of deficiency. The notice of deficiency shall state the applicable code provision violated and specify the date by which the required repairs or improvements shall be completed. Pursuant to KRS 227.336, corrective action shall be ordered remedied within a period of time not to exceed sixty (60) days.

(2) Service of notice. The written notice of deficiency shall be served personally or via certified U.S. Mail upon the owner or the owner's duly authorized agent and upon each other person responsible for the deficiency. Proof of service shall be required to perfect service.

(3) Failure to correct deficiency. Any person who fails to correct a deficiency ordered to be remedied shall be subject to enforcement actions authorized in KRS 227.331.

Section 6. Means of Appeal. (1) Appeals of orders issued by the State Fire Marshal.

(a) An appeal to the State Fire Marshal from a notice of deficiency issued by the Division of Fire Prevention shall be:

1. In writing; and
2. Received by the Division of Fire Prevention, State Fire Marshal prior to the completion date specified in the notice of deficiency served.

(b) If the matter is not resolved by agreement of the affected parties and the State Fire Marshal, legal action shall be instituted pursuant to KRS Chapter 227.

(2) Appeal of an order to remedy. Pursuant to KRS 227.380, the owner of the subject property may appeal to the State Fire Marshal within ten (10) days following receipt of the issued order.

Section 7. Special Provisions. (1) Fire incident reporting. The fire chief or highest ranking fire department officer shall promptly notify the State Fire Marshal upon becoming aware of any of the following:

- (a) A hazardous materials incident;
- (b) Fire-related fatality (including a vehicle or home);
- (c) Fire-related injury serious enough to become a fatality; or
- (d) A fire involving major structural damage in the following buildings:
 1. An institutional, educational, state-owned or state-leased, or high-hazard occupancy;
 2. A business, mercantile, or industrial occupancy having a capacity over 100 persons;
 3. An assembly occupancy having a capacity over 100 persons;
 4. A place of religious worship with a capacity over 400 persons and more than 6,000 square feet; or
5. Any other building more than three (3) stories in height or 20,000 square feet of floor area.

(2) Fire protection systems testing and inspection.

(a) Reporting. Except as provided in paragraph (c) of this subsection, an inspection or test required by this administrative regulation, Chapter 11, 13, or 20 of the NFPA 1, Uniform Fire Code shall be conducted and reported to the owner by a person authorized or certified by the State Fire Marshal.

(b) Inspection and test reports.

1. A required inspection or test shall be recorded on the applicable form contained in NFPA 25 or NFPA 72 as determined by the State Fire Marshal.
2. If any violations are noted, the completed report shall be given to the owner and a copy forwarded to the State Fire Marshal within ten (10) working days of the date of the inspection.

(c) Reporting exceptions.

1. Portable fire extinguishers and single station smoke detectors may be inspected and tested by the property owner or property owner's agent.
2. Allowable reports by owners and owner agents shall not be required to be filed with the State Fire Marshal, but shall be kept on file within the building and available for review upon request by the State Fire Marshal.

(d) Frequency. Periodic testing and inspection of each fire suppression and each alarm system shall be performed as follows:

1. Fire detection and alarm systems and all fire suppression systems in buildings other than state licensed hospitals, nursing homes, and ambulatory surgical centers shall be inspected

and tested for proper operation annually;

2. Fire detection and alarm systems and all fire suppression systems in state licensed hospitals, nursing homes, and ambulatory surgical centers shall be inspected and tested quarterly by a Kentucky certified inspector for sprinkler systems and fire alarms, respectively; and

3. Systems or components for which the manufacturer recommends more frequent checks shall be performed as described by the manufacturer's instructions.

(e) Inspectors.

1. Fire alarm inspectors shall apply to be certified by the department on a Form FPS 33-01, Application for Fire Alarm Systems Certification, and shall:

a.(i) Be qualified as NICET level two (2), level three (3), or level four (4) in fire alarm systems; or

(ii) Pass the examination for alarm inspector administered by an examination provider approved by the department;

b. Have had at least eighteen (18) months of experience in installation, repair, testing, or a combination thereof during the five (5) year period immediately preceding application;

c. Pay an annual certification fee of fifty (50) dollars for each classification applied for; and

d. Submit a passport-sized color photograph with the application.

2. For renewals of fire alarm inspector certification, an applicant shall:

a. Submit completed Form FPS 33-02, Renewal Application for Fire Alarm Systems Certification, October 2012;

b. Pay an annual certification renewal fee of fifty (50) dollars for each classification held;

c. Submit a passport-sized color photograph with the renewal application; and

d. (i) Provide proof of six (6) hours of continuing education from an approved provider obtained in the twelve (12) months prior to renewal; or

(ii) Provide proof of current NICET certification.

3. Penalties. An applicant shall be subject to penalties established in KRS 227.990 and may be denied certification or renewal for:

a. Failure of a certified fire alarm inspector to conduct an inspection in accordance with the NFPA 72 standard;

b. Submission of false inspection reports;

c. Performing inspections without first having been certified by the department as a fire alarm inspector; or

d. Making a false or misleading statement on an application for certification or renewal.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) NFPA 1, "Uniform Fire Code", 2012 edition;

(b) NFPA 101, "Life Safety Code", 2012 edition;

(c) NFPA 70, "National Electrical Code®", 2011 edition;

(d) FPS 33-01, "Application for Fire Alarm Systems Certification", October 2012; and

(e) FPS 33-02, "Renewal Application for Fire Alarm Systems Certification", October 2012.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, Monday through Friday, 8 a.m. to 4:30 p.m. (25 Ky.R. 2482; Am. 2900; eff. 5-26-99; 29 Ky.R. 566; 961; eff. 10-16-2002; 30 Ky.R. 2385; 31 Ky.R. 81; eff. 8-6-04; 32 Ky.R. 2352; 33 Ky.R. 395; eff. 9-1-06; 33 Ky.R. 395; 3255; 4169; eff. 7-6-07; 34 Ky.R. 1229; 1741; eff. 2-1-2008; 35 Ky.R. 2364; 36 Ky.R. 77; TAm. 1857; eff. 7-29-2009; 39 Ky.R. 1066; eff. 3-8-2013.)